

**Memorandum of Understanding
Regarding Initial Allocation Formula for the
ACF River Basin**

WHEREAS, the States of Alabama, Florida and Georgia, along with the United States of America, are signatories to the Apalachicola - Chattahoochee - Flint River Basin Compact, (ACF Compact);

WHEREAS, the ACF Compact authorizes the States of Alabama, Florida and Georgia to develop an allocation formula for equitably apportioning the surface waters of the ACF Basin among the States; and it is the intent of the states that this formula will be consistent with the ACF Compact;

WHEREAS, the States of Alabama, Florida and Georgia have reached substantial agreement in principle regarding many of the terms of an allocation formula;

WHEREAS, the ACF Compact and the Operating Guidelines of the ACF Commission require the input of the public through public hearings and written comments prior to the adoption by the ACF Commission of an initial allocation formula;

WHEREAS, the ACF Compact requires that the allocation formula is subject to review and concurrence by the federal commissioner, and it is desirable to facilitate that review in a timely manner; and

WHEREAS, the States of Alabama, Florida and Georgia desire to express and commemorate their preliminary agreement to certain concepts in advance of the issuance of a draft initial allocation formula for public comment and federal review.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, the States of Alabama, Florida and Georgia hereby agree to the following principles of an allocation formula:

1. Performance under the allocation formula shall begin when authorization for allocation of storage in Lake Lanier for 705 mgd for water supply has occurred, and the Corps has issued contracts for such use. Until the date on which performance commences, the Corps will operate the federal reservoirs consistent with the principles of the allocation formula to the maximum extent practicable.
2. The signatory states will begin negotiations to extend or modify the allocation formula no later than December 31, 2035.
3. **Notice to terminate 2038
Expiration 2040**

Effect after Termination

Neither the fact that the Signatory Parties have executed this Agreement nor the terms of this Agreement shall create any inference or presumption that such execution or terms would constitute an equitable apportionment of the surface waters of the ACF Basin after the expiration of this Agreement or termination of the ACF Compact.

4. The following flow requirements will be included in the allocation formula, and are intended to be met by the combined actions of maintaining waters uses consistent with the allocation formula, and by the Corps operating the federal reservoirs consistent with the allocation formula.
 - a. On the Chattahoochee River above its confluence with Peachtree Creek, a flow of 750 cfs will be maintained on a daily basis, with the understanding that the State of Georgia is entitled to a variable flow regime that requires no less than 650 cfs in winters, and flows higher than 750 cfs in summers, provided that an annual average of 750 cfs is obtained from such a variable flow regime.
 - b. On the Chattahoochee River at Columbus, Georgia, a flow of 1350 cfs will be maintained on a daily basis at all times, and a flow of 1850 cfs will be maintained on a weekly basis provided that the top of the storage pool in West Point Reservoir is above 621.6 feet.
 - c. On the Chattahoochee River at Columbia, Alabama, a flow of 2000 cfs will be maintained on a daily basis.
 - d. On the Apalachicola River at Chattahoochee, a minimum flow of 5000 cfs will be maintained on a weekly basis at all times. Monthly flows will be maintained at quantities that are determined by the composite storage levels in West Point Lake and Lake Walter F. George, and by a determination of whether drought relief is in effect. Table 1 sets the applicable minimum monthly flow requirements when drought relief is not in effect. Table 2 sets the applicable monthly flow requirements when drought relief is in effect. Table 3 lists the reservoir storage quantities which determine which set of monthly flow requirements at Chattahoochee is applicable. It is not the states' intent to over release to meet monthly flow requirements.
5. The formula will provide drought relief in any month when the following conditions exist:

There is an indication of climatic drought, demonstrated by the following facts having existed in the prior month:

- The ACF Basin Weighted 12-Month Standard Precipitation Index was
–1.26 or less;

AND

- The ACF Basin Weighted Hydrologic Palmer Index was -2.37 or less;

6. Georgia shall impose in the relief month the terms and conditions described in the published Georgia Drought Management Plan as appropriate for the existent level of drought.
7. The agreement shall consider and include the use of Lake Lanier as feasible and appropriate. West Point Lake, Lake Walter F. George and Lake Seminole shall be used to support all the flow requirements at Chattahoochee, FL.
8. The allocation formula will explicitly address future uses of water in the manner set forth below.
 - a. The states will support authorization for allocation of storage in Lake Lanier for 705 mgd (annual average) for water supply. Consideration will be given to additional water supply in excess of 705 mgd.
 - b. Of water withdrawn for municipal purposes within the Chattahoochee Basin above the Whitesburg gage and within the Corps jurisdictional boundary of Lake Lanier in Georgia, no less than 58% on an annual average basis shall be returned to the Chattahoochee River Basin and accounted for at Whitesburg.
 - c. No water from the Chattahoochee River below Whitesburg may be exported for use above Whitesburg.
 - d. All new water supply reservoirs with a storage capacity in excess of 500 acre feet shall be required to meet the instream flow requirements that are specified in the laws, regulations and policies of the state in which the reservoir is located.
 - e. The states shall request and support raising the top of the conservation pools of Lake Lanier by 1 foot in all months and raising the top of the conservation pools of Lake Seminole to 78 feet above mean sea level. The states shall further request and support adjusting the top of the conservation pools of Lake Walter F. George and West Point Lake and zonal elevations of all four federal reservoirs to levels mutually agreed to by the states.
 - f. There shall be no new transfers from the Flint River Basin to the Chattahoochee River Basin other than those that have state or federal permits as of the date of execution of this Memorandum of Understanding.

9. An adaptive management process will be established which will facilitate the implementation of the formula, and which will provide a foundation for potential changes to the formula. However, no changes to the formula resulting from a, b, c or d below shall be made except with the unanimous approval of the ACF Commission.
 - a. The adaptive management process will include the following elements:
 - Comprehensive gathering of extant information on the water and water-dependent biologic resources of the ACF Basin;
 - Special studies of issues important to management of basin resources;
 - Analysis and interpretation of this information to establish cause-effect relationships and to identify conditions in which there is a need or opportunity to manage and use the resources more effectively; and,
 - Adaptation of basin management to accomplish this more effective resource management.

The adaptive management process will make use of a Science Advisory Panel and of public participation.
 - b. The formula will provide for using the Water Control Plan as one basis for implementing the terms of the formula.
 - c. The formula will provide for development of a Drought Management Plan. Modifications to the Drought Management Plan will be accomplished through adaptive management.
 - d. The agreement will provide for relief to a state in the event of unanticipated conditions.
10. The agreement shall include a provision governing the shared use of the surface water of the Chattahoochee River along the shared border between the states of Alabama and Georgia, including provisions regarding the issuance of permits for the withdrawal of surface water and discharge of treated wastewater by the state in which the person using the surface water or discharging the wastewater is located.
11. The agreement shall include a provision regarding commercial navigation in the Basin under such terms and conditions, as the states may deem reasonable and consistent with the remaining provisions of the agreement.
12. The States of Alabama, Florida and Georgia commit to work diligently to prepare a draft initial allocation formula agreement that incorporates the above concepts and such other terms upon which the States agree. Upon completion of the draft initial allocation formula, the ACF Commission Secretary shall provide copies of such draft initial allocation formula to the public, shall provide notice of a public comment period on the initial draft allocation formula, and shall establish dates for public hearings on the draft initial allocation formula in accordance with the ACF Commission Operating Guidelines.

13. The signatory states recognize the need to stay the litigation pending in Alabama, the District of Columbia and Georgia during the drafting of the agreement.

Approved and adopted this 22 day of July 2003.

B. L. Riley
Governor Bob Riley
State of Alabama

7-22-03
Date

Jeb Bush
Governor Jeb Bush
State of Florida

7-22-03
Date

Sonny Perdue
Governor Sonny Perdue
State of Georgia

7-22-03
Date